

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 14TH DECEMBER 2006 / 23RD AGRAHAYANA 1928

CrI.MC.No. 4039 of 2006()

AGST.THE CRIME NO.795/06 OF KOTHAMANGALAMPOLICE STATION]

PETITIONER: ACCUSED NOS.1,2 AND 4

1. DR.JOY MATHEW,
S/O.P.V.MATHEW, PHYSICIAN,
NIRMALA MEDICAL CENTRE,
MUVATTUPUZHA.
2. DR.FRANCIS MATHEW,
S/O.P.V.MATHEW, ST.JOHN'S HOSPITAL GARDENS,
KATTAPANA.
3. DR.STANLEY MATHEW,
S/O.P.V.MATHEW, PERUMPILLY CHIRA HOUSE,
KOTHAMANGALAM, NOW RESIDING AT 218,
VALLEY FLATS, KASTURBA MEDICAL COLLEGE,
MANIPAL.

BY ADV. SRI.S.KRISHNAMOORTHY

RESPONDENTS:

1. STATE OF KERALA,
REP. BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.
2. SUB INSPECTOR OF POLICE,
KOTHAMANGALAM POLICE STATION,
KOTHAMANGALAM.
3. K.K.TOMMY,
S/O.ABRAHAM, KARAKOMBAN HOUSE,
KULATHIL, KUMBALATHU MURI, MALAYIN KEEZHIL,
KOTHAMANGALAM.
4. V.C.CHACKO, AGED 28 YEARS,
S/O.CHACKO, VETTUKATTU MALAYIL,
PUTHENPURA, NADUKANI P.O., KOTHAMANGALAM.
5. P.C.SAJU, PALAKOTTAM VEEDU,
NADUKANI P.O., KOTHAMANGALAM.
6. M.P.SHAJI, S/O.PAULOSE,
MELOTHU VEEDU, NADUKANI P.O.,
KOTHAMANGALAM.

BY PUBLIC PROSECUTOR SRI.K.A.AKBAR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 14/12/2006, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R.BASANT, J

Crl.M.C.No.4039 of 2006

Dated this the 14th day of December 2006

O R D E R

The petitioners are accused in a crime registered inter alia under Sections 323 and 294 (b) read with 149 I.P.C. The petitioners are doctors/medical professionals. It is contended by them that the allegations raised against them are totally false and are raised with vexatious intent. The third respondent, an influential politician is bent on vexing and harassing the petitioners, it is contended. It is stated that one of the accused persons is not even available in India. The others were also not available at the scene of the alleged crime, it is further submitted. It is, in these circumstances, prayed that the powers under Section 482 Cr.P.C may be invoked to quash the F.I.R registered against the petitioners.

2. I am not satisfied that powers under Section 482 Cr.P.C can or need be invoked in the facts and circumstances of this case. Whether the allegations are true or false, cannot obviously be decided by this court at this stage with the help of the available inputs. It is certainly for the investigator to conduct the investigation and come to an appropriate conclusion on the acceptability of the factual allegations raised. All offences alleged are bailable and I find no scope for any allegation of unnecessary vexation by arrest and

detention.

3. This is not to say that I do not sympathetically consider the assertions made by the petitioners in the petition. If true, it reveals the worst form of vexation but I have no reason to assume that the investigating officer will not conduct a proper investigation and ascertain the truth. If false allegations are raised against the petitioners, the investigating officer must be able by investigation to ascertain that and take appropriate further action. If it is the case of the petitioners that false allegations are raised against them, certainly it is for them to explain their stand to the investigating officer who must conduct a proper investigation and come to appropriate conclusions. Suffice it to say that I do not find any justification to invoke the powers under Section 482 Cr.P.C at this stage.

This Criminal Miscellaneous Case is in these circumstances dismissed.

(R.BASANT, JUDGE)

jsr

R.BASANT, J

C.R.R.P.No.

ORDER

21ST DAY OF JULY 2006